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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
AT SEATTLE

PROVISION A/R, INC., a Washington
corporation,

Plaintiff,

vs.

COMMERCIAL RECOVERY
CORPORATION, a Minnesota
corporation,

Defendant.

Civil Cause No. CV-11-330-EES

**COMPLAINT FOR DECLARATORY
JUDGMENT AND OTHER RELIEF**

Plaintiff, Provision A/R, Inc. (Provision A/R), by and through its undersigned
counsel, brings this action against Defendant, Commercial Recovery Corporation
(CRC), for a declaratory judgment declaring that U.S. Patent No. 7,167,839 (the

1 '839 Patent) is invalid and/or is not infringed by Provision A/R or any subscriber of
2 Provision A/R.

3
4 **PARTIES**

5 1. Provision A/R, Inc. is a corporation organized under the laws of the
6 State of Washington, with its principal place of business in East Wenatchee,
7 Washington.

8 2. Commercial Recovery Corporation is a corporation organized under the
9 laws of the State of Minnesota, with its principal place of business in Blaine,
10 Minnesota.

11
12 **JURISDICTION AND VENUE**

13 3. This action arises under the patent laws of the United States, Title 35
14 U.S.C. § 1, *et seq.*

15 4. Plaintiff is a corporation organized under the laws of the State of
16 Washington with a principal place of business in East Wenatchee, Washington.
17 Provision A/R provides Internet services to subscribers within the jurisdiction of this
18 Court.

19 5. Plaintiff is informed and believes, and on that basis alleges that this
20 Court has personal jurisdiction over Defendant; that Defendant has, among other
21 things, distributed, sold or offered for sale, online services via the Internet including
22 services that are the subject of this litigation within the State of Washington; that
23
24

1 Defendant has offered services and/or has threatened litigation against subscribers,
2 or potential subscribers of Plaintiff's online services, in the ordinary course of trade;
3 and/or otherwise has made or established contacts within the State of Washington
4 sufficient to permit the exercise of personal jurisdiction.
5

6 6. This Court has subject matter jurisdiction over this action under 28
7 U.S.C. §§ 1331, 1338, 2201, and 2202.

8 7. Venue is proper in this District under 28 U.S.C. § 1931 (b) and (c).

9 8. An actual controversy, within the meaning of 28 U.S.C. §§ 2201 and
10 2202 exists between Provision A/R, on the one hand and CRC on the other, with
11 respect to whether the claims of the '839 Patent are invalid and/or not infringed.
12

13 **FACTUAL BACKGROUND**

14 9. Defendant has alleged that subscribers to Plaintiff's online, computer
15 based, data management program infringe United States Patent No. 7,167,839,
16 please see Exhibit A attached hereto. A copy of the '839 Patent is attached hereto as
17 Exhibit B, which is purportedly owned by Defendant.
18

19 10. An actual case or controversy has arisen between the parties as
20 Provision A/R, under its warranties of merchantability and fitness for purpose, and
21 Section 271(b) of the Patent Act, 35 U.S.C. § 271(b) for inducement of
22 infringement, is at risk of suit by Defendant and/or responsible for the indemnity
23 and defense to its subscribers of its online services, which includes subscribers in
24

1 the Eastern District of Washington. The claims of Defendant, therefore, threaten
2 injury to Plaintiff.

3 **DECLARATORY JUDGMENT OF INVALIDITY OF THE '839 PATENT**

4 11. Plaintiff incorporates by reference its allegations as set forth above in
5 paragraphs 1 through 10.

6 12. Upon information and belief, Plaintiff alleges that the '839 Patent is
7 invalid for failing to comply with the provisions of the Patent Laws, including 35
8 U.S.C. §§ 102, 103, and 112.

9 13. Upon information and belief, Plaintiff alleges that any online computer
10 based service offered by it to subscribers does not infringe any claim of the '839
11 Patent, and that no subscriber is induced to infringe any claim of the '839 Patent.
12

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff prays:

15 a. For a judgment declaring that neither Plaintiff, nor any subscriber of
16 Plaintiff's online services, has infringed and is not infringing any valid claim of the
17 '839 Patent;
18

19 b. For a judgment declaring that the '839 Patent is invalid; and
20

21 c. For such other and further relief as the Court deems just and equitable
22 in the premises.
23

1 DATED this 6th day of September, 2011.

2
3 By: /s/ Rex B. Stratton
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